Reminder!

25 of April, 2009

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To: USPTO
Mrs. Cecilia J. Tsang,
Supervisory Patent Examiner,
Art Unit 1654
Fax No. : 571-273-8300

Re: Application No. 10/451,746

I am sorry to inform you that my dear husband, Iser Lubocki has passed away.

This patent was very important to him and the prolonged correspondence with the the U.S. Patent office caused him much misery.
Up until his last days he did not want to forfeit his patent, as he thought it was too important to humanity to be neglected.

On behalf of him, I will try to answer your letter, even though it is very hard for me to enter his big shoes (as his nick name was the Israeli "Da Vinci").

My husband filed his PCT already in 2000, and the request to the U.S. Patent office at 2001.
I do not know why, in your correspondence, the filing date you note is 6/24/2003? More then that, at 2007/2008 for almost a year my husband didn't get any answers from your office and it seemed someone ignored him (I hope not on purpose, but just as a simple officer malpractice)
Actually, according to the law in Israel (and perhaps also in the U.S.), in such a case, and especially at his very old age, he should have had his patent approved long ago. His patent was approved in other countries , including Australia, Israel and New Zealand, especially and even after they took the U.S. Patent office rejections into consideration. It is very strange to me that the U.S. Patent office didn't approve his patent up until now, and I sincerely hope you will do so soon.

The specific answers to the U.S.P.O letter dated 03/05/2009 are:

Claim 6 which is drawn to a method of measuring the "mad cow disease" is done **In Vitro** (on saliva, which is taken out of the human or animals body) and **not In Vivo** (on an ocular lens of the mammal) and of course **we don't use the regular Raman or Vo-Dinh special optical fiber**. We **use Surface Enhanced Raman Spectroscopy with a special fitted "painting" on the surrounding of each marker , and when we use an optical fiber it is a regular one.**

To reject claim 6 over Vo-Dinh in view of Goldstein, is a mistake. It is like to reject someone that will write a patent on how to get some knowledge about the moon (when the moon is analogous to a livestock who has the mad cow disease and the knowledge is the marker),
and to continue the rejection by saying , there was another patent which tried to get to the moon with an airplane (analogous to the simple Raman method Goldstein suggests), and it is obvious to replace the airplane with a space shuttle (analogous to the sophisticated SERMED optical probe that Vo-Dinh suggests).

But we never tried to get to the moon (i.e. - into the body of the mammal which has the mad cow disease) – so we do not suggest using an airplane or a space shuttle. We are actually only trying to get close to asteroids circling the moon (analogous to the animal's saliva) which escape the moon's gravity and fall down to earth. We then check them on earth (analogous to the In Vitro checking) using a special painting technique.

As for claim 7 – in accordance with your suggestion – I can change it to:
"An enhancing means as a step for enhancement scattered light returned from biological material by subjecting material or light scattering to a special metal surface in a resonant and off resonant enhancement way with or without chromophore enhancement. The enhancing substrate can include, but is not limited to, a rough surface, metals such as Silver, Gold or Copper colloids, Silica, Chromophores and combinations thereof."

As for page 19, lines 20-24 of the instant specification – the meaning of the words on the **"edge" of the fiber optics means** in the **surroundings of the fiber optics.** As it was said, our invention does not use the SERMED probe and we don't change the commercial optical fiber probe. It can use of course an optical fiber which will be in close proximity to the biomarker we want to check but **we will "paint" the biomarker (and not the optic fiber)** with some special combination of nano materials (Silver, Gold etc.) which will enhance the Raman reading of the biomarkers (SERS effect).

As for non invasiveness (paragraph 7 in the U.S.P.O letter) – For **Vo Dinh,** non-invasive means "tissue is not required to be removed but the SERMED probe is getting in touch with the body gastrointestinal tract, heart, lungs, cervix, skin, ocular lens etc."
This is invasive, as a laser beam can sometimes cause damage even if it acts on the skin (burns, cancer, etc.) or the ocular lens (blindness), and to get to the GI tract or lungs you need to do an endoscopy or bronchoscopy with Vo Dinh's special optical fiber probe and this is invasive!

In our patent the method is completely non invasive as it is done In Vitro, out side of the human body and not In Vivo (inside the human body). We get the marker from secretions. We take it away from the human body, "paint" it in a certain combination (for each marker there is a preferable combination) and then we read the marker Raman signals.

As for paragraph 8 in the U.S.P.O letter - "evidence of commercial success and long left but unmet need" was used by the U.S. Court on a previous case in which the court decided that the U.S.P.O can not reject inventions simply by saying that they are obvious over some other previous inventions. I think that the U.S.P.O can not ignore decisions of the U.S. Court.

As for claim 17 (paragraph 11 in the U.S.P.O letter):
Our instrument is completely different from Vo-Dinh. So it is not logical to ask us why Vo-Dinh's instrument could not be adopted for handheld use in view of Cullum et al. And Khalil.

Sincerely yours,

~~Rivka~~ Lubocki

P.S Just before sending this letter I got another strange letter from your office dated 04/13/2009 This strange letter arrived in spite of the fact that **the patent is in a process of reexamination!!!** As it is obvious from your previous letter dated 03/05/2009 .

Attached: The corrected claims